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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,521	02/27/2004	Josef Chalupper	P04,0054	6889

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

EXAMINER

MONIKANG, GEORGE C

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/788,521

Applicant(s)

CHALUPPER ET AL.

Examiner

George C. Monikang

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/788,521.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/27/2006, 6/23/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/7/2007 have been fully considered but they are not persuasive.
2. With respect to applicant's arguments that the Niederdrank reference fails to teach obtaining a transfer function of the first hearing aid device so to adjust the parameters of the second hearing aid device, the examiner maintains his stands. Transfer functions are the signal characteristics such as signal level, frequency spectra etc. Niederdrank discloses the first hearing aid analyzing the acoustic characteristics which includes signal levels, frequency spectra, modulations frequencies, modulation depths, noise parts etc (Niederdrank, col. 4, lines 35-47).
3. With respect to applicant's arguments that the Niederdrank reference fails to teach the first hearing aid device being analyzed. Examiner maintains his rejection because applicant's claim is broad and applicant fails to claim invention as argued. Applicant simply claims "automatically analyzing a first hearing aid device that produces an analysis result." Niederdrank discloses a hearing aid system where the first hearing aid having a signal analysis unit in which parameters of the acoustic field in which the hearing aid is situated are identified (Niederdrank, col. 4, lines 35-54). The first hearing aid is analyzed based on whatever location it is situated and the second hearing aid is adjust accordingly.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by

Niederdrank, WO 02/28143 A2. (This reference is cited in IDS filed 3/27/2006)

Re Claim 1, Niederdrank discloses a method to automatically adjust a second hearing device (abstract), comprising: automatically analyzing a first hearing device that produces an analysis result (col. 4, lines 16-25); determining setting parameters of the second hearing device based on the analysis result of the first hearing device (col. 4, lines 16-25); and adjusting the second hearing device based on the determined setting parameters (col. 4, lines 16-25).

Re Claim 2, Niederdrank discloses the method according to claim 1, wherein the automatic analysis comprises presenting an input sound signal to the first hearing device (fig. 2; col. 4, lines 26-47), and testing an associated output sound signal at the first hearing device (fig. 2; col. 4, lines 26-47).

Re Claim 3, Niederdrank discloses the method according to claim 1, wherein the analysis comprises reading the setting parameters from the first hearing device (fig. 2: 14; col. 4, lines 35-47).

Re Claim 4, Niederdrank discloses the method according to claim 1, wherein the automatic analysis comprises reading out setting parameters and simulating a behavior of the first hearing device with a simulation model (col. 4, lines 26-47).

Re Claim 5, Niederdrank discloses the method according to claim 1, further comprising making an acoustic measurement of the second hearing device after its adjustment (col. 4, lines 48-58).

Re Claim 6, Niederdrank discloses the method according to claim 1, further comprising utilizing a dynamic model for the adjusting of the second hearing device in which tuning events of the second hearing device are considered (col. 3, lines 35-50).

Re Claim 7, Niederdrank discloses the method according to claim 1, further comprising implementing audiological measurements and utilizing the audiological measurements for the adjusting of the second hearing device (col. 2, lines 18-23).

Re Claim 8, Niederdrank discloses the method according to claim 1, further comprising, after the adjustment, changing the setting parameters of the second hearing device based on determined setting parameters in a predetermined time span (col. 3, lines 51-57), to predefined setting parameters (col. 4, lines 48-58).

Claim 9 has been analyzed and rejected according to claim 1.

Claim 10 has been analyzed and rejected according to claim 2.

Claim 11 has been analyzed and rejected according to claim 3.

Claim 12 has been analyzed and rejected according to claim 4.

Claim 13 has been analyzed and rejected according to claim 5.

Claim 14 has been analyzed and rejected according to claim 6.

Claim 15 has been analyzed and rejected according to claim 7.

Claim 16 has been analyzed and rejected according to claim 8.

Re Claim 17, Niederdrank discloses the method according to claim 1, wherein the step of automatically analyzing comprises: providing an input sound signal to the first hearing device (col. 4, lines 35-47); analyzing a corresponding output sound signal of the first hearing device (col. 4, lines 35-47); and determining a transfer function from the analyzing of the output, wherein the determining of the setting parameters of the second hearing aid device is based on the transfer function of the first hearing aid device (col. 4, lines 35-54).

Re Claim 18, Niederdrank discloses the method according to claim 1, wherein the step of analyzing comprises: obtaining an effective amplification by way of a perceptive analysis as a target amplification for the second hearing device (col. 4, lines 26-54).

Re Claim 19, Niederdrank discloses the device according to claim 9, wherein the first hearing device further comprises: an input at which an input sound signal is provided; an output at which a corresponding output signal is produced (col. 4, lines 35-54); wherein the analysis device is configured to analyze the corresponding output signal, such that a transfer function of the first hearing device is obtained, the determination device being configured to determine setting parameters of the second hearing device based on the transfer function of the first hearing device (col. 4, lines 35-54).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

1/11/2008


BRIAN CHEN
SUPERVISOR, PATENT EXAMINER
TECHNICAL CENTER 2000